

PLANNING COMMISSION MINUTES

January 16, 2007

7:00 P.M.

Present: Chairman Clark Jenkins, Vice-Chairman Tom Smith, Kirt Peterson, Ray Keller, Michael Allen, City Council Representative Barbara Holt, City Attorney Russell Mahan, City Engineer Paul Rowland, Planning Director Aric Jensen, and Recording Secretary Connie Feil.

Absent: Mark Green.

Clark Jenkins welcomed all those present and had all Planning Commission Members introduce themselves. Mr. Jenkins also welcomed the Scouts and their leaders to the meeting.

Ray Keller made a motion to approve the minutes for January 2, 2007 as written. Barbara Holt seconded the motion and voting was unanimous in favor.

Barbara Holt made a motion to approve the Planning Commission Meeting schedule for 2007 with the elimination of November 6, 2007, to allow for Election Day. Tom Smith seconded the motion and voting was unanimous in favor.

1. **PUBLIC HEARING**-Consider a variance to allow a reduced side yard setback located at 539 E. 1400 N., Andrea Pillsbury, applicant.

Andrea and Lawrence Pillsbury, applicants, were present. Aric Jensen explained that Andrea Pillsbury is requesting a variance to allow for an addition to her existing single family home. This property is located in an R-4 zone, and the minimum required side yard setback is 8 feet. When the applicant's home was constructed in 1966 it was located approximately 5.5' from the west property line, and was slightly canted (i.e., it was not exactly parallel to the property line). At the time of construction the property was zoned R-2, which required a minimum side yard of 6' with a combined width of both side yards of 16'. It is staff's opinion that the original plans called for a 6' side yard, but that the foundation was not accurately situated at the time of construction due to an error on the part of the original contractor and/or surveyor. The reasoning is that the foundation appears unmodified since the original construction, and the opposite existing side yard setback is exactly 10.5', which combined with the 5.5' yields the required 16'.

Mr. Jensen explained that the Pillsbury's home is set back 20 feet behind the existing home on the west side (523 E. 1400 N.) so that the addition would have little impact on the neighbors. The City has not received any comments by phone or letter regarding this variance. Mr. Pillsbury mentioned that he has spoken with Bruce Chapman, residing at 523 E. 1400 N., and he has no concerns with the variance and that he said it would not affect his property.

In the Staff report, prepared by Mr. Jensen, it states that in regards to Section 10-9a-707 (2)(a)(i - v), Staff's opinion is that the petitioner has shown that she meets all of the necessary criteria such

that the Commission could grant a variance, however, the question arises as to whether the Commission should grant the variance requested. First, does literal enforcement of the ordinance create an unreasonable hardship that is not necessary to carry out the general purpose of the zoning ordinance. Staff could argue this point either way:

1. Yes, literal enforcement does create a hardship that is not necessary to carry out the general purpose of the zoning ordinance. The purpose of the zoning ordinance first and foremost is to protect the public health by assuring access to light, air, and emergency services. Secondly, it is to protect the quality of life through landscaping, minimum yard standards, off-street parking requirements, etc. Lastly, it is to protect property values. Requiring the applicant to put an unusual jog in the house because of a construction/survey error that occurred 40 years ago doesn't seem to promote any of the purposes of the zoning ordinance.
2. No, literal enforcement does not create a hardship. The applicant could build an addition without a variance. It would just be 19' wide instead of 22.5' wide and there would be an odd shaped jog in the wall and roof where the existing southwest corner of the house is.

Second, are there special circumstances which apply to this property that do not apply to all other properties in the subdivision? Yes, this is an irregular shaped parcel due to the jog in the street, however, that point is of minor importance. The more germane special circumstances on this property are the result of the improper siting of the house at the time of original construction.

Third, there is space on the property to expand the dwelling to the rear. However, the applicant's goal is to expand an existing bedroom to create a master bedroom, and the location of the existing bedroom is on the front of the house.

Fourth, this is not contrary to the general plan which calls for single family development and related accessory structures.

Fifth, approving the requested variance would provide substantial justice for the property owner because they did not create the existing problem on the site.

In regards to Section 10-9a-707 (2)(b - c), the hardship is located on the property and is the result of circumstances peculiar to the property.

Mr. Jensen finds that the applicants meet the requirements for a variance, and recommends granting the variance as shown with the findings that the property is an odd shaped piece of land but is a legal conforming lot. However, with the current ordinance the home is considered non-complying.

The public hearing was opened for all those with comments or concerns. The public hearing

was closed without comments.

Barbara Holt feels that if there is no impact on the neighbors and the neighbors do not object, then go ahead and grant the variance.

Tom Smith feels that a variance of some kind should be granted, but not with a setback of 4'6" which is too close to the property line. The addition could jog and allow for a 5'6" setback which now exists, but to allow for a 4'6" is not acceptable.

There was a discussion between the applicant and staff in regards to the possibility of building at the existing 5'6" setback verses the 4'6" setback, fire codes, and the appearance of the roof line of the addition.

Barbara Holt made a motion to approve the variance as presented by Staff. Ray Keller seconded the motion and voting was a tie vote. Barbara Holt, Ray Keller and Clark Jenkins voting aye. Tom Smith, Michael Allen and Kirt Peterson voting nay.

Tom Smith made a motion to approve the variance with a 5'6" setback. Michael Allen seconded that motion and voting passed by majority vote. Tom Smith, Michael Allen, Kirt Peterson, Ray Keller and Clark Jenkins voting aye. Barbara Holt voting nay.

2. Consider preliminary and final site plan approval for a 4-unit condominium located at 161 W. 1000 N., Katie Eckman, applicant.

Katie Eckman, applicant, was present. Aric Jensen explained that Katie Eckman is requesting preliminary and final site plan approval for a multi-family development located in the RM-13 zone. The site is approximately one-half acre in size and is adjacent to, and essentially part of, an existing development consisting of 2 duplexes facing a common, private drive. The proposed project would bring the existing duplex development to a logical terminus. This item was reviewed by the Planning Commission on January 2nd and there was a unanimous vote to continue the item because neither the applicant nor the project engineer were present.

Mr. Jensen continued to explain that the proposed site plan is very straightforward and is basically a mirror image of the existing development. The proposed units will occupy roughly the same footprint as the existing units but will be updated for current design trends and building codes. Staff presented a redlined version of the plans showing the corrections to the project engineer. Staff has not received the corrections which changes the approval to a preliminary site plan. The applicant has brought in colored illustrations of the proposed structures which Mr. Jensen presented.

Staff recommends primarily site approval for the Katie Eckman duplexes subject to the following conditions:

1. Submit a landscape plan
2. Submit an area calculation table
3. Modify the plans to show 20' rear yard setback along south property boundary (instead of 15' as currently shown)
4. Show 6' solid fence around the perimeter (no chainlink with slats)

The other remaining items are notes and conditions related to project improvements, and are as follows:

1. New area will drain to 1000 North out the driveway of the adjacent duplexes.
 2. No detention is provided so impact fee of $0.52 \text{ ac} \times \$2,400/\text{ac} = \$1,259.42$
 3. Applicant shall provide P.U.E. along full width and length of existing driveway to cover new water laterals, sewer laterals, and fire hydrant line.
 4. Applicant shall provide 8" fire hydrant line as shown on plans. Water bids not received for 2007 yet so estimate of hydrant cost as follows:

180 ft of DIP @ \$40.00/ft	=	7,200
hydrant @ \$3,000	=	3,000
tapping valve etc. @ 1,600	=	1,600
2-1" services to meter	=	1,800
road patch (1000 N only)	=	<u>250</u>
		13,850 (estimate only until prices from 2007)
- Bid
5. Applicant shall pay all impact fees
 6. Applicant shall provide complete Storm Water Pollution Prevention Plan with permits
 7. All construction work and plans shall meet the current I.B.C. at the time of submittal

There was a discussion between the applicant and staff regarding the ownership of the project. Mrs. Eckman explained that this project will be sold as condominiums and in the future the existing apartments will be converted to condominiums. It was suggested to combine the existing units with the new ones and record them as one project. It was also required to submit a permanent access agreement for the front property and for access across the hammerhead turn around if it is not recorded as one project.

Kirt Peterson made a motion for preliminary multi-family site plan approval for 175 W. 1000 N. as outlined by Staff and with the corrections shown on the site plan. Tom Smith seconded the motion and voting was unanimous in favor.

3. Consider preliminary and final commercial site plan approval for America West Bank located at 641 S. 500 W., Gary Hamblin, applicant.

Casey Greenwood, representing America West Bank, was present. Aric Jensen explained that America West Bank is requesting preliminary and final commercial site plan approval for a bank

building to be constructed on an existing commercial site. The plans submitted were very thorough, and so there are only a few minor corrections, which are as follows:

1. The proposed bank building elevation will need to be raised 0.6 feet for proper drainage.
2. The landscape buffer around parking perimeter needs to be increased to 5 feet as shown on the redline plans.
3. The plan shows the areas of landscaping but does not call out the location and number of trees and shrubs.
4. Install a 6' high solid fence (no chainlink with slats) along the east property line.
5. The site plan lacks a vicinity map.

The property is located along 500 West, which is a State Road and therefore the modifications to the drive approaches will require UDOT approval.

Since this is an existing site and the drainage is essentially unchanged, there is no onsite storm water detention required.

The existing site was built at a time when the landscaping requirement was only 5%. Up until a year ago, the City required 10% landscaping. The current Ordinance requires 15% landscaping. The new landscaping proposed by the applicant is slightly more than 15% of just the bank site area, which averages out to an overall site landscaping of 10.1%. Because this is an existing site, staff felt that this was an appropriate way of calculating the required amount of landscaping. The Planning Commission could require that the entire site be brought up to the current standard, but that would make the project untenable.

There was a discussion between the Planning Commission and Mr. Greenwood in regards with the placement and type of signs proposed and description of the property. The proposed sign will be an illuminated sign, not an electronic type sign. The aerial photo shows this property being two separate pieces of land with two separate addresses. Mr. Greenwood thinks that it is one piece of property but the property can be used as two parcels and have an easement for parking. The bank building will not be part of the retail space.

Mr. Rowland looked on the recorded plats and reported that this is two separate lots. Mr. Rowland suggested combining the two lots with one legal description and record them as one lot.

The discussion continued regarding the issue that, if there are two separate lots, each lot must stand independently and not have an easement to cover any deficiency on either lot. The ordinance states that if you build on two lots, it becomes one lot. Mr. Jensen reviewed this site plan with the assumption that it was one lot. The applicant has two options: 1. To combine both lots into one. 2. Leave it as two lots and eliminate the bank and submit a different commercial site plan.

Kirt Peterson made a motion for preliminary site plan approval for America West Bank as

recommended by staff and with the following additions:

1. The two lots are combined and recorded as one lot.
2. The two pole signs shown on the plans are combined into one illuminated type sign.
3. The south cross access area be landscaped and made into a future cross access easement.

Ray Keller seconded the motion and voting was unanimous in favor.

4. Consider preliminary subdivision approval for a one lot subdivision located at 1675 E. Maple Hills Dr., Darrin Shemon, applicant.

Darrin Shemon, applicant, was present. Paul Rowland explained that in September of 2006 the Planning Commission reviewed and approved a conceptual plan for a single lot subdivision at the top of Maple Hills Drive immediately adjacent to the City's lower Maple Hills culinary reservoir. Mr. Darrin Shemon has now put together a preliminary plat and building pad site plan that meets the requirements of the conditions established with the conceptual approval.

The property in question is a 7 acre parcel on the north side of Maple Hills Drive on the Cave Hollow side of the ridge. With the exception of one small portion right next to the reservoir, most of the property is wooded with a natural slope over 30%. Construction of a home on the pad requires the exchange of property around the reservoir and along the frontage of the property where the reservoir access is currently located. The building pad and the reservoir will share a common access.

Staff has reviewed the proposed site plans with a couple of additional concerns that need to be worked out in addition to the items discussed. The water line and over flow line that come out of the reservoir are not located as shown on the original Maple Hills subdivision plans. They are located in an area that is not covered by an easement and would be rather difficult to access for repair. The property deeded for the reservoir when it was constructed is very close to the edge of the tank and is not adequate should we need to do any type of repair work on the walls. To resolve these concerns, staff has worked out additional land transfers and public utility easements. It was also discovered that building the house would deny access to a manhole on the overflow line. That access will have to be provided as part of the grading and landscaping around the proposed home. Each Planning Commission member had a copy of the site plan showing the proposals as described.

Mr. Rowland continued to explain that there are utilities available in Maple Hills Drive, and so there is no need for Mr. Shemon to post a large bond for utility construction, however, there is some sidewalk and approach work needed that will require bonding. Because most of the property will remain in its natural state, it is not right to require a storm water impact fee for the full 7 acres. Staff is proposing that a storm water impact fee be paid for only one acre.

Staff recommends that the Planning Commission send a favorable recommendation for Preliminary

Approval to the City Council with the following conditions:

1. All property be exchanged and recorded prior to the recording of the final plat.
2. An easement be recorded to cover the location of the existing water and overflow lines and the new access way.
3. A cross access agreement be worked out for the access to the building site, the reservoir and the cell tower site.
4. A lease agreement with the cell site owner be signed prior to recording of the plat.
5. The single home allowed on the site must have minimal encroachment into the unbuildable area.
6. The portion of Maple Hills Drive included as part of the property be dedicated to the city as part of the plat.
7. No further division of the 7 acre lot be allowed with a restriction recorded at the county recorders office and/or on the final plat.
8. Sidewalk along the north side of Maple Hills Drive be extended to the east side of the new drive approach.

There was a discussion regarding property lines, access easements, a lease agreement for the cell tower, and that only one buildable lot be allowed on this property.

Michael Allen made a motion to send to the City Council preliminary subdivision approval for 1675 E. Maple Hills Dr. subject to the conditions outlined by staff. Tom Smith seconded the motion and voting was unanimous in favor.

5. Consider a zone amendment from RM-13 to RM-19 and RM-13 to P.O. for 485-505 & 517 S. 100 E., 127-137-155-132-160-172-184 & 198 E. 500 S., and 524-526-528 & 530 S. 200 E., Marv Blossch, applicant.

Marv Blossch, applicant, was present. Aric Jensen explained that by law there are two general decision making processes. One is the Administrative process, in which no public clamor is permitted, and the other is the Legislative process, in which public clamor is permitted. There have been several public hearings over the past year regarding Mr. Blossch's proposal. Many residents of the neighborhood have spoken out and Mr. Jensen feels that public opinion should be part of the decision.

Mr. Jensen read the following chapters 14-2-205 (B) and 14-2-205 (F) from the City Zoning Ordinance which applies to the decision being made tonight and emphasized the points shown in italics:

14-2-205 (B)

For the purpose of establishing and maintaining sound, stable, and desirable development within the City, *it is declared to be the public policy that amendments shall not be made to this Ordinance or Map except to promote more fully the objectives and purpose*

of this Ordinance or to correct manifest errors.

14-2-205 (F)

The Planning Commission shall consider the request and shall approve, disapprove or hold the petition for future consideration. After taking final action on such petition, the Planning Commission shall certify its recommendation to the City Council as approval or disapproval of the proposed amendment. *Before recommending an amendment to this Ordinance or a zone change to the Map, it must be found that such amendment is necessary, is in the interest of the public, and is in harmony with the objectives and purpose of this Ordinance.*

Mr. Jensen mentioned that, for time's sake, he did not go into detail in his staff report, and that Mr. Bloesch should present his case to the Commission. The report is as follows:

Mr. Marv Bloesch, representing himself and several other property owners, is requesting a zone map amendment from RM-13 to RM-19, and/or from RM-13 to PO (Professional Office) for several parcels of property located on the north and south sides of 500 South between 100 East and 200 East. Most of these properties are single family homes that have either been converted to duplexes or that are otherwise being rented.

There have been several public hearings over the past year regarding this issue. Many residents of the neighborhood have spoken out regarding the proposal. The proposal itself has changed many times and appears to be somewhat of a moving target. Currently, the applicant has 4 different scenarios proposed for the area. Staff is not going to take the time in this document to try and explain the specifics of each scenario, however, conceptual site plans depicting the proposals are attached for the Commission's information. The body of this report will address policy points regarding any proposed zone change in this neighborhood. The applicant will make a formal presentation at the Commission meeting.

Analysis

Whenever a zone change is proposed, the first document to be reviewed is the City General Plan. In this instance the General Plan gives only basic guidance regarding the development of this area. On page 43 it states:

IV. Potential Future Conditions: There are three parcels commercially zoned on Main Street which will be developed as zoned. Two other parcels, one on 100 East and one on Orchard Drive, are zoned R-3-13 [RM-13] and should be developed as zoned. There will continue to be interest in commercial development along 500 South between 100 East and Orchard Drive.

V. General Plan Conditions: The area should be developed as zoned. No further extension of commercial uses should occur east of 100 East.

The plain speak meaning of the General Plan appears to be that: “Properties should be developed as they are currently zoned, although some people will want to develop commercially along 500 South east of 100 East.” This also appears to be the will of the neighborhood at large, based on the comments received at the public hearings. Although the General Plan is an advisory document and not a regulatory document like the Land Use Ordinance, it does represent a modicum of public involvement and input. The fact that the General Plan is consistent with the comments of the vast majority of the surrounding residents who attended the public hearings, presents a strong case for recommending the denial of the rezone on face value.

As mentioned in previous staff reports, almost all of the single family homes along 500 South between 100 East and 200 East have been converted to duplexes and/or are not owner occupied. In general, the dwellings along 500 South are not as well kept and have not received the same level of upgrading as those not fronting onto 500 South. Traffic volumes and speeds are very high on 500 South and there is a traffic lane immediately adjacent to the curb and gutter. It is not safe to back out onto 500 South. The deterioration of existing dwellings along 500 South effects properties located on side streets near 500 South. The City has recently received code enforcement violation complaints for properties along 500 South in this area.

Professional Office

In general, Professional office uses would probably result in reinvestment and long term maintenance of the subject properties. Furthermore it would allow for common driveways and parking areas that would reduce and/or eliminate curbcuts on 500 South. Also, it would require that all parking areas be designed so that vehicles had to pull forward onto the street, instead of backing into the street as currently occurs. Traffic would probably increase slightly on weekdays, but would be dramatically reduced on weekends.

If the existing dwellings were demolished and a new office building or buildings could were built, then the new development would have to meet all of the current parking, landscaping, and construction standards. This would most likely change the residential character of 500 South, although many would argue that 500 South lost its residential character years ago when the street was widened and the hospital built.

Perhaps more importantly, allowing the expansion of professional office areas within the City would increase reinvestment in those areas, but would weaken redevelopment efforts in the Downtown area. From an economic development stand point, Staff does not support new professional office zoning in areas outside of designated redevelopment areas.

Riley Court Expansion/RM-19 rezone

The existing Riley Court Apartments comprise most of the property proposed for rezone to RM-19. The rest of the land is contained in three other properties which are residential rental/income properties, and which are contiguous to Riley Court. The proposal is to combine all of these properties into a single property, rezone them to RM-19, and then to siphon off the increased density from the formally independent parcels to increase the density of Riley Court. In concept staff has no objection to the expansion of Riley Court under the current zoning. The simple fact of the matter is that the applicant could expand Riley Court under the current RM-13 zone designation by simply combining the three independent parcels with the Riley Court property, demolishing the existing structures, and then obtaining site plan approval. However, the applicant wants to double the density of Riley Court and keep the existing structures on the three independent parcels. This proposal does not seem to be benefit the neighborhood in anyway. It would provide additional senior housing, which is a general benefit to the City.

Conclusion

Staff does not support the proposals to rezone the subject properties at this time. They are contrary to the General Plan, contrary to the majority of the opinions expressed in the public hearings, contrary to the City's efforts to revitalize existing commercial areas, and there is not net improvement of the health, safety, and welfare of the community.

Recommended Action

Recommend denial of the proposals to rezone the subject properties because they are contrary to the General Plan, contrary to the majority of the opinions expressed in the public hearings, contrary to the City's efforts to revitalize existing commercial areas, and there is not net improvement of the health, safety, and welfare of the community.

Marv Blosch explained that there have been several changes proposed over the past two years. Mr. Blosch reviewed the previous proposals one of which included the expansion of just Riley Court, one that included the P.O. proposals and various combinations of both. Mr. Blosch also presented four new proposals and stated that he would like to have a quick approval for one of them so that he can begin the construction.

Mr. Blosch continued to explain that he has purchased a duplex and other property in this area and has done extensive remodeling which has upgraded the neighborhood. He feels that changing the zoning to P.O. will not affect the downtown area and will up grade 500 South.

Mr. Blosch feels that any one of his proposals would benefit the City. The Zoning for Bountiful needs help especially going east on 500 South. The homes are being used as rentals, and some tenants are undesirable and the properties have not been maintained. Changing the zoning to P.O.

would upgrade the area and prevent any more deterioration. Increasing the density for Riley Court will benefit the senior citizens and Bountiful City.

Russell Mahan explained to the Planning Commission members that a decision needs to be made one way or another. If the approval is denied there is no reason to continue. The same decision needs to be made with the increased density for Riley Court. If an approval is made, the Commission should also choose which footprint is to be approved and place restrictions on what can or cannot be done. A development agreement can be required and a detailed site plan submitted that would become binding after final approval.

The public hearing was opened for all those with comments and concerns.

Chris Anderson, residing at 521 S. 200 E., does not want any more density in the neighborhood. Along 500 South the sidewalks are not useable (safe) for any pedestrians especially seniors citizens. Mr. Anderson feels that more density will bring more traffic to 500 South which has too much congestion now.

Amy Arbuckle, residing at 548 S. 200 E., is in favor for the rezone to a P.O. Zone. This zone would be a good buffer for the residential homes. It would also benefit 500 South since the existing homes are not maintained and are in need of repairs. It would also help with the traffic along 500 South. Mrs. Arbuckle has some concerns with having a 3-story building for Riley Court in her back yard. Having a 3-story building abutting her back yard will leave her with no privacy at all. She prefers to have the proposal changed to only a 2-story building.

Robert McArthur, residing at 485 S. 100 E., can see a lot of changes in and around his neighborhood. He feels that it is because there are no strict rules to govern commercial from residential. Mr. McArthur feels that now is a great opportunity to create more rules to protect the residents from the impact brought on by commercial businesses. If a P.O. Zone is approved, strict rules governing the business itself and landscaping to create a buffer for the families abutting the businesses should be part of that ordinance.

Clay Christiansen, residing at 550 S. 100 E., agrees with what has been said in regards to strict rules and landscaping used as a buffer to protect the residents. Approving a P.O. Zone in this area could be a good use for the older homes on 500 South if restrictions are in place.

The public hearing was closed with no further comments.

There was a lengthy discussion between Planning Commission and Staff regarding all the concerns discussed. The results were that the Planning Commission and Staff are not ready to allow for a P.O. Zone on 500 South without an ordinance written to fit the situation. The current ordinance does not have the restrictions requested by the public and staff. This project is premature and the Planning Commission is not ready to jump into something before an ordinance is in place.

In regards to Riley Court, the citizens do not want more density in their neighborhood. The residents agree that currently Riley Court is an asset to the neighborhood but they do not want the density increased.

Mr. Jensen explained that whenever a rezone is considered the city has to consider its General Plan. The purpose of a General Plan is to include the input from the public in creating a land policy. The current General Plan does not support the rezone which is consistent with the public input.

It was suggested to Mr. Bloch to choose one site plan and resubmit it complete with all the requirements for site plan approval and for a zone change from RM-13 to RM-19, and to resubmit the zone change from RM-13 to P.O. after a revision has been completed for the P.O. Zone text.

Michael Allen made a motion to recommend to the City Council denial of the proposals regarding the rezone to P.O. for 500 South until the P.O. ordinance has been revised. Kirt Peterson seconded the motion. Michael Allen withdrew his motion after it was brought to the Commission's attention that the applicant wouldn't be able to reapply for one year.

Kirt Peterson made a motion to continue both proposals for a later Planning Commission meeting. Barbara Holt seconded the motion and voting was unanimous.

Meeting adjourned at 10:30 p.m.